

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL F. SKAY,

Petitioner,

v.

ATTORNEY GENERAL FOR THE
STATE OF WASHINGTON, *et al.*,

Respondents.

Case No. 2:13-CV-01086-RSM-MAT

REPORT & RECOMMENDATION

Petitioner Michael Skay, represented by counsel and proceeding *in forma pauperis*, moves to stay and abey his 28 U.S.C. § 2254 habeas petition. (Dkt. 2.) Mr. Skay contends that, in light of *Miller v. Alabama*, 132 S. Ct. 2455 (2012), it was unconstitutional for the State to sentence him to life without parole for the offense of murder committed as a juvenile. (Dkt. 10, at 5.) Respondent agrees that Mr. Skay's motion to stay and abey this matter should be granted because Mr. Skay's pending state personal restraint petition ("PRP") on the same issue will likely also be stayed until the state supreme court issues its opinion in *In re McNeal*, No. 87654-I (Wash.), arguments for which are scheduled for the fall of 2013. (Dkt. 15.)

1 The Court finds that the parties have demonstrated good cause for staying the present
2 matter as a protective petition contemplated in *Pace v. DiGuglielmo*, 544 U.S. 408, 416 (2005).
3 The Court therefore recommends GRANTING Mr. Skay's agreed motion to stay and abey this
4 matter until his state-court PRP is completely adjudicated. The parties should be directed to file
5 a stipulated, proposed order lifting the stay within thirty (30) days of Mr. Skay's state PRP being
6 fully adjudicated.

7 This matter should be NOTED for consideration by the district judge on the same day
8 this Report and Recommendation is filed.

9 Dated this 30th day of July, 2013.

10
11 

12 Mary Alice Theiler
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24